

Message Text

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TO SECSTATE WASHDC PRIORITY 3307

UNCLAS LONDON 11648

E.O. 11652: N/A

TAGS: EAIR, UK

SUBJ: CIVAIR - PANAM COURT CASE

REF: LONDON 11427

1. BRITISH COURT OF APPEALS TODAY REVERSED EARLIER HIGH COURT DECISION ON PANAM AGENT COMMISSION CONTROVERSY. THREE-JUDGE DECISION WAS UNANIMOUS THAT BERMUDA AGREEMENT NOT PART OF MUNICIPAL LAW OF UK AND THEREFORE NOT WITHIN JURISDICTION OF MUNICIPAL COURTS TO INTERPRET. CONSEQUENTLY, ONLY DOCUMENTS WHICH COURTS FREE TO CONSIDER IN JUDGING WHETHER SECRETARY OF STATE FOR TRADE WAS ACTING WITHIN HIS POWERS IN APPLYING CONDITION TO PANAM'S PERMIT REQUIRING IT TO ADHERE TO SPECIFIED AGENTS COMMISSION LEVEL WERE AIR NAVIGATION ORDER OF 1974, CIVIL AVIATION ACT OF 1949 (THE ENABLING LEGISLATION FOR THE AIR NAVIGATION ORDER) AND THE CHICAGO CONVENTION WHICH IMPLEMENTED THE 1949 ACT. JUDGES HELD THAT NONE OF THESE DOCUMENTS RESTRICTED TRADE SECRETARY'S POWER TO APPLY CONDITIONS TO OPERATING PERMITS. ONE JUDGE EXPRESSED INFORMAL VIEW THAT GOVERNMENT'S INTERPRETATION OF THE TERM "RATES" IN THE BERMUDA AGREEMENT PROBABLY CORRECT. OTHER TWO JUDGES EXPRESSED NO VIEW ON INTERPRETATION OF RATES.

2. PANAM LAWYERS IMMEDIATELY APPLIED TO COURT FOR LEAVE TO APPEAL DECISION BUT WERE TURNED DOWN. THEY UNCLASSIFIED

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NOW MUST APPLY TO HOUSE OF LORDS FOR RIGHT TO APPEAL.

THIS CANNOT BE DONE BEFORE OCTOBER BECAUSE OF
PARLIAMENTARY RECESS.

3. WE HAVE NOT YET HAD OPPORTUNITY TO DISCUSS UKG
INTENTIONS WITH DEPARTMENT OF TRADE OFFICIALS BUT WILL
DO SO FIRST OPPORTUNITY AND REPORT.
RICHARDSON

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NNN

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